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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,872	01/03/2002	Robert E. Woodard	P031	8365

28802 7590 02/26/2003

AFX INC.  
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FREMONT, CA 94538

EXAMINER
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ROANE, AARON F

ART UNIT	PAPER NUMBER
3739	

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/039,872	WOODARD ET AL.
	Examiner Aaron Roane	Art Unit 3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 January 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected..

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

**The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the steering means" in line 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

**A person shall be entitled to a patent unless –**

**(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

Claims 1-3, 6-9, and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindquist et al. (USPN 6,102,886).

Regarding claims 1 and 2, Lundquist et al. disclose an ablative device comprising a flexible elongate body (4), a distal end ablative device (20) with at least one ablative element (20), a means for steering (12), flexible members (28, 34, 36 and 48), one flexible member (48) is located between the means for steering and the distal end of the elongate body and overlaps the ablative element (20), see col. 7-9 and figures 3-10.

Regarding claim 3, Lundquist et al. further disclose the flexible member or element having a means (48) for limiting deflection to one geometric plane, see figures 3-5.

Regarding claims 6-9, Lundquist et al. further disclose a flexible beam member (48) that has a rectangular cross section that limits deflection to one geometric plane, wherein the beam has a width greater than a length, see figure 4.

Regarding claims 11 and 12, Lundquist et al. further disclose an RF electrode (20) using a radio frequency energy, see col. 9, lines 17-24 and figure 4.

Regarding claims 13 and 14, Lundquist et al. disclose the claimed invention, see col. 6, lines 64-67 and col. 7, lines 1-13. Furthermore, the parallel positioning of the ablative device, the application of ablative energy and the creation of a lesion due to ablation are inherent.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindquist et al. (USPN 6,102,886).

Regarding claim 10, Lindquist et al. further disclose that the means for steering and the flexible member are indirectly connected to each other via a rack (124) and pinion (114). At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art to simply fasten the flexible member (48) to the steering means (12) because Applicant has not disclosed that making the steering means and the flexible member integral provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well by simply fastening the flexible member to the steering means because both integrability and fastening provide connection of the flexible member to the steering means. Finally, it has been held that

the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindquist et al. (USPN 6,102,886) in view of Pomeranz et al. (USPN 5,800,482).

Regarding claims 15-17, Lindquist et al. disclose the claimed invention except for explicitly translating the ablative device along the desired tissue, which subsequently creates a long continuous lesion and lesion path. Pomeranz et al. disclose an apparatus and method for linear lesion ablation and teach that it is well known in the art to “drag” the ablative device or tip across the treatment tissue while ablative RF energy is applied in order to “burn linear lesions into the” treatment tissue, see col. 1, lines 30-38.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the invention of Lundquist et al., as taught by Pomeranz et al., to “drag” the ablative device or tip across the treatment tissue while ablative RF energy is applied in order to “burn linear lesions into the” treatment tissue

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Roane whose telephone number is (703) 305-7377. The examiner can normally be reached on 9am - 5pm, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

A.R. *A.R.*  
February 21, 2003

*Roy Gibson*  
ROY D. GIBSON  
PRIMARY EXAMINER